UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,916	09/23/2003	Eric Groth	N0166US	2527

37583 7590 05/04/2006	EXAMINER
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ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20060501

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/668,916	GROTH ET AL.
	Examiner	**Art Unit**	
	Dalena Tran	3661	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>24 April 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>19-22</u>.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-18 and 23</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the references cited still reads the claims invention. Busch et al. ('502) combining for teaching comparing the data indicating traffic speed for locations and implicitly disclose grouping locations into at least one congestion event.

Busch et al. ('502) disclose a speed density difference is calculated (column 2, lines 30-52) according to the following relationship:

$$vk - D = \sqrt{\left(\frac{V_{fi} - V_i}{V_{fi}}\right)^2 + \left(\frac{k_i}{k_{max\,i}}\right)^2} - \sqrt{\left(\frac{V_{f(i+1)} - V_{(i+1)}}{V_{f(i+1)}}\right)^2 + \left(\frac{k_{(i+1)}}{k_{(max\,i+1)}}\right)^2}$$

where the first term

$$\sqrt{\left(\frac{V_{fi} - V_i}{V_{fi}}\right)^2 + \left(\frac{k_i}{k_{max\,i}}\right)^2}$$

is calculated from the local traffic data on average speed and the traffic density (column 4, lines 35-36) of the first measuring point MQi (column 4, lines 38-39).

the second term

$$\sqrt{\left(\frac{V_{(fi+1)} - V_{(i+1)}}{V_{f(i+1)}}\right)^2 + \left(\frac{k_{(i+1)}}{k_{(max\,i+1)}}\right)^2}$$

is calculated from the local traffic data on average speed and the traffic density (column 4, lines 35-36) of the second measuring point MQ (i +1(column 4, lines 39-40).

The current traffic condition can thus be drawn from the difference between the two terms (column 4, lines 51-52). If traffic conditions at the measuring cross section are undisturbed, ie. the speed is not low and the traffic density is not high (column 4, lines 44-46). If unstable traffic conditions prevail at the measuring cross section , ie. the speed is low and the traffic density is high (column 4, lines 48-49). Also, ('502) compare this speed density difference to see if it lies below a specific threshold (column 5, lines 54-55). Therefore, it would have been obvious to one of ordinary skill in the art that ('502) does implicitly teach comparing the data indicating traffic speed at first and second location, compared the difference between traffic speed at first and second location to see if it less than a threshold value, and grouping first and second location into a congestion event in independent claims 1, 14, and 23 of the present invention. Because, the first term of the equation above represent the average speed and the traffic density in the first measuring point, the second term of the equation represent the average speed and the traffic density in the second measuring point, and comparing the difference between these two term (speed density difference vk - D) to see if it below a theshold value, for example 0.3 (column 5, line 55), and grouping the traffic conditions (undisturbed or unstable conditions, column 4, lines 46, 48).

Applicant's argue on page 7 of the amendment (4/24/06), second paragraph, that ('502) "comparing a speed at a first location to a predetermined speed value and comparing a speed at a second location to a predetermined speed value (column 1, lines 59-62)". However, in reviewing this section, this comparing is the prior art in the background of the invention European reference (EP-A-0 171098) discloses, Busch et al. ('502) do not disclose that comparing.

Also, applicant's argue on page 7, in second paragraph, that ('502) "computing a speed density difference in which a speed at a first location is compared to a first maximum predetermined speed value and which a speed at a second location is compared to a second maximum predetermined speed value". However, in ('502), equation lines 30-40, the values (vfi, vf (i+1), kmaxi, kmax (i+1)) are adjustable maximum values of vehicle speed, and adjustable maximum values of the traffic density at the first and second measuring points to used in equation (lines 30-39) in order to calculated a speed density difference.
 ('502) do not comparing a speed at a first location to a first maximum predetermined speed value and which a speed at a second location to a second maximum predetermined speed value.

Therefore, the references cited still read the claims invention.